

7.13.00.00 - SPECIAL APPRAISAL REPORTS

7.13.01.00 General

Some special appraisals shall be prepared in separate Reports. Such Special Reports may have modified formats, and follow modified review and approval processes as discussed below. These Special Reports include appraisals for material and disposal sites; sites for maintenance stations, shops, and offices; joint acquisitions by the California Department of Transportation (Department) and other public agencies; and inverse condemnation actions.

7.13.02.00 Material Site Appraisals

If a material site is to be acquired in conjunction with a right of way acquisition, both requirements will be appraised as a whole, and separated into two reports.

The "Introduction" will include economic justification for purchase of the site as compared with the cost of securing the material by royalty agreement. The approximate quantity of material to be taken from the site should be noted. A comparison can then be made as to the equivalent cubic meter cost should the material be secured by materials agreement. The going price for similar material in the vicinity on a metric basis should be indicated. The estimated salvage value of the land after removal operations have been completed shall also be shown.

The format, content and approval process is the same as any other regular acquisition appraisal.

The appraisal will contain the following information:

- A. A statement by the Region/District Materials Engineer as to the quantity and quality of the material.
- B. The name of the office originating the request (Construction, Project Development or Maintenance).
- C. The termini of the project or projects on which the material is to be used.
- D. The budget or program in which the project or projects may be found (if there is a specially voted project by the California Transportation Commission, so state and indicate the date of the vote).
- E. The average haul distance from the site to the project or projects, or to that portion of the project or projects on which the material is to be used.
- F. A statement that the location of the material site does not violate any of the provisions of the Standard Specifications (prohibiting excavation which would result in scars which will present an unsightly appearance from any highway). If the provisions of the Standard Specifications cannot be complied with, a statement must be included to the effect that the Region/District will take such action as is necessary to correct any unsightly appearance.
- G. A statement that the location of the material site is not in violation of any ordinance or zoning regulations.
- H. Approximate date of termination of use.

7.13.03.00 **Disposal Site Appraisals**

If a disposal site is to be acquired in conjunction with a right of way acquisition, both requirements will be appraised as a whole and separated into two Reports.

The introduction should include the same information as listed for materials sites under 7.13.02 B through H.

7.13.04.00 **Office and Maintenance Station Site Appraisals**

Appraisals of new sites for maintenance stations, shops, or office buildings shall be separate Reports. If the site is to be acquired in conjunction with a right of way acquisition, both requirements will be appraised as a whole even though separated into two Reports. All other appraisals not a part of a right of way project will be in the standard format and content with the same approval process as a regular acquisition appraisal.

7.13.10.00 **Joint Acquisition Appraisals**

The Department may enter into Cooperative Agreements with other public agencies for purchase of property for other public purposes. The date and title of the Cooperative Agreement will be referenced in the Report. The highway requirements and the other agencies' requirements will be shown separately with the appropriate values distributed to each in accordance with the agreement.

The appraisal will assume that all agencies' acquisition and construction occur together and no damages or benefits caused by one shall affect the before value of the other. This does not preclude proper apportioning of damages occurring to remaining property due to specific construction features of one. Similarly, benefits due to the construction project of one agency may be used to offset damages caused by the other.

If the Cooperative Agreement provides for specific proportions for sharing right of way costs, these proportions will be used in the Report and shown on the Appraisal Page.

Legal opinions should be obtained before condemnation of joint acquisitions.

7.13.20.00 **Protection Appraisals**

Potential protection acquisitions require prior approval by Project Development and Construction. Upon receiving authority, the Region/District shall proceed to prepare an appraisal covering this acquisition. The appraisal will be prepared the same as a regular program appraisal but identified as a "Protection" appraisal.

Appraisals submitted for HQ R/W approval must contain a reference to the date of the approval authorizing the protection acquisition. Any special funding approval must also be noted in the Report.

7.13.30.00 **Appraisals for Other Agencies**

Appraisals prepared for other State or Local Agencies will be comparable in format and documentation to that of a staff appraisal for the Department except where the agreement with the agency specifies a different product.

7.13.40.00 **Staff Litigation Reports**

An appraisal for condemnation or inverse litigation testimony shall be of sufficient detail, consistent with legal and professional requirements for format and documentation to present a clear and accurate opinion of value. The staff appraiser will be furnished all data that would be furnished a contract appraiser at the time of the assignment. A Report Analysis Form (Exhibit 7-EX-18) will be prepared. Condemnation appraisals are to be completed at least 60 days prior to the trial date and forwarded to the Legal Division.

If the Legal Division requests preparation of a staff independent appraisal for purposes of inverse litigation, the report will conform to the same standards as a condemnation report, but will show the phrase "Inverse Condemnation Appraisal" on the front cover. A description of the claim will be included.

The following two statements will be included in the Certificate of Appraiser:

- A. "This report is pursuant to the request of and for the confidential use by the Legal Division for the purpose of defending the State."
- B. "Valuation conclusions are the result of using given legal assumptions for analysis purpose only and in no way imply acceptance or rejection of the validity of the claim to which this report relates."

NOTES:

7.13.50.00 - UTILITY, RAILROAD AND GOVERNMENTAL OWNERSHIPS

7.13.50.01 Public Utility Property

Property owned in fee by public utilities (including governmental utility agencies, irrigation district/regions, and flood control district/regions) may be subject to special appraisal treatment, including the purchase of replacement land for exchange, where necessary. If the public utility and the State have entered into a master agreement at variance with instructions, the master agreement will prevail. In these cases, the title and date of the master agreement will be noted in the appraisal. Appraisers should first confer with the Utility Branch when assigned public-utility owned parcels to appraise.

7.13.50.02 Fee Land

- A. If joint use of fee-owned property is proposed, the land required for highway use will be appraised at the market value of the underlying fee. This envisions the land utilized by the utility facility has a secondary use. For example, an electric tower line traverses a property. The area under the line may still be used for agriculture, parking or residential plottage.
- B. If the State proposes to replace the land in full required by exchange, land value of the fee-owned parcel should be shown as zero (Market Value may be shown in "Remarks"). In "Remarks," describe the location and parcel numbers of the replacement land, if determined.

When the State is replacing the fee-owned utility right of way with a replacement right of way that is not as wide as the existing utility property being acquired, the valuation approach will be the same as set forth in Section 7.13.60.01 for valuation of railroad operating right of way.

- C. If the public utility proposes to acquire the replacement property, the land value should be the market value of the minimum requirements of the replacement property. The basis of the valuation and description of the replacement property must be fully documented in the appraisal.
- D. If the public utility proposes to abandon the use of the property without replacement, market value would be paid for the required property considering the property clear of the public utility use. Cost of abandonment and removal of improvements may be covered by utility agreement.
- E. Public utility corporation yards, shops, office and other proprietary properties will be valued by normal methods.

7.13.50.03 Improvements

Relocation of buildings, equipment, and lines involved in the utility production or transmission will normally be handled by utility agreement and need not be included in the appraisal unless the acquisition or relocation of improvements is proposed for payment under right of way contract.

7.13.60.00 Railroad Property General Prerequisites

Appraisals of railroad-owned properties which are not connected with railroad operations do not require special handling, except that they are to be submitted to HQ R/W for review and approval. All appraisals involving railroad-operating properties connected with rights of way, depots, station grounds, or public team tracks, etc., are to be submitted to HQ R/W for review and approval, regardless of the monetary amount involved.

All railroad properties should be valued in the full, narrative format. The Non-Complex Valuation of \$10,000 or Less and the Determination of Just Compensation (waiver of appraisal) formats shall not be used. Railroad parcels are not eligible for the one-agent appraise/acquire process.

Proper handling of railroad properties requires a high degree of coordination between numerous departments, including Legal, Structures, Project Development, and Right of Way. The following prerequisites apply:

- A. Upon assignment of a railroad property appraisal, the appraiser shall first confer with the Region/District Railroad Agent. The delivery of the Notice of Decision to Appraise letter shall be coordinated through the Region/District Railroad Agent.
- B. Railroad appraisals are to be submitted on a construction project basis including all of the takings from the railroad ownership in a single appraisal.
- C. Due to extraordinary lead time requirements, operating right of way appraisals must be submitted a minimum of 24 months prior to the project certification date. Single transverse crossings of railroad right of way which do not require substantial relocation of rail facilities are excepted from this requirement and may be submitted one year prior to the certification date. Any other exception to this policy must have prior approval of HQ R/W.
- D. The appraisal shall include a general description of the items which are proposed to be covered by a future construction and maintenance agreement or service contract.
- E. In all cases where more than a nominal consideration is proposed, the appraisal will include a clear statement describing the property rights held by the railroad in the property being acquired.

7.13.60.01 **Valuation of Railroad Properties**

Takings from railroads may involve complex legal and appraisal problems in determining fair market value. Whenever it becomes apparent that unusual problems exist or there is a problem with defining whether the property is operating or nonoperating right of way, the Region/District should confer with the Region/District Railroad Agent, or if necessary, HQ R/W. In most cases, the following guidelines may be used:

A. Appraisals of Railroad-Owned Lands

1. Operating right of way:

- a. Where the State proposes replacement of the required land or facility, the part taken will be assigned a nominal value. A description of the replacement land will be included in "Remarks" and delineated on the Appraisal Maps.

When the State is replacing the operating right of way needed for the project with a right of way that is not as wide as the existing operating right of way, generally, only the portion replaced will be assigned a nominal value. For example, assume the existing operating right of way is 24 meters wide and the State is proposing to convey an 18-meter-wide right of way to the railroad company as the replacement right of way. Under this circumstance, the appraisal will show 18 meters of the existing operating right of way at nominal (because it is being replaced). The remaining width, 6 meters in this example, will then be handled in one of two ways:

- 1) If the additional width of the existing right of way is required only because of uneven topography (slopes, etc.), it will also be valued at nominal.

2) Otherwise, the additional width will be appraised at market value.

The appraisal report will show as follows (on Form RW 7-9):

Total area taken - 24 m x 152 m =	<u>3,648 m²</u>
Area being replaced - 18 m x 152 m - (2,736 m ²) =	nominal
Area not being replaced - 6 m x 152 m - (912 m ²) @ \$50.00/m ² (market value) =	\$45,600
Est. Total Value =	<u>\$45,600</u>

However, if the existing operating right of way is 24 meters wide because of an adverse terrain condition (cut or fill) and the replacement right of way is on level ground thus only requiring 18 meters right of way to replace the utility of the existing operating railroad facility, then the total area being acquired of 3,648 m² will be assigned a nominal value.

If the railroad company requests that the State acquire and convey a replacement right of way which is wider than their existing right of way to be acquired by the State for the project, then the appraisal will show the extra width at market value to be paid for by the railroad company in the exchange transaction.

The appraisal report will show as follows (on Form RW 7-9):

Total area to be acquired - 18 m x 152 m =	2,736 m ²
Replacement right of way - 24 m x 152 m =	<u>3,648 m²</u>
Right of way take - 18 m x 152 m - (2,736 m ²) @ nominal	
Replacement area in excess of take- 6 m x 152 m - (912 m ²) @ \$50.00/m ² (market value)	\$45,600
Total amount to be paid to the State by railroad company	<u>\$45,600</u>

However, if the replacement railroad right of way is 24 meters wide because of adverse terrain condition (cut or fill) and the replacement right of way merely replaces the functional utility of the existing operating railroad facility, then the appraisal will show nominal value for an even exchange.

Width with utility will be the criterion. Length and area alone will not.

If the total area of the replacement right of way is different from the total area of the existing operating railroad right of way to be acquired for the project merely because of the different lengths of the two rights of way, the appraisal will be nominal value as stated in the first paragraph of this Section.

- b. Where the State does not propose replacement of the required land, the longitudinal takings will be appraised at fair market value. An example of this type of taking occurs when the State is acquiring a longitudinal strip of existing operating railroad right of way and the railroad company is able and willing to continue its operations without any replacement right of way; e.g., the existing right of way is 24 meters wide and the State needs a 6 meter strip for the project and replacement right of way is not required.
- c. Where portions of the operating property may reasonably be converted to other uses by minor adjustments of facilities without affecting the railroad service, the taking will be appraised at market value, reflecting the costs of conversion.
- d. Transverse crossings require special consideration by the appraiser. Existing California law establishes certain principles regarding the valuation of transverse crossings. The leading case in California establishing those principles is *City of Oakland v. Schenck* (1925) 197 Cal. 456. The main principle is that the public has the right to construct street crossings for a nominal consideration when the crossing does not interfere with the railroads' use. Information about railroad operations and uses should be obtained through the Region/District Railroad Agent.

To ensure that transverse crossings are properly valued, the appraiser must be familiar with the following: the easement document, to confirm the rights being acquired; and, the construction in the manner proposed, to determine the impact on the existing and potential uses. Additionally, in the valuation of transverse crossings, the appraiser must ask the following questions: 1. Does the exercise of the rights being acquired unduly interfere with the railroad's use of its operating right of way for legitimate railroad purposes? If the answer is "No," then the value is nominal. If the answer is "Yes," then two additional questions must be answered: 2. What are the reasonably probable uses that are impacted; and, 3. What is the market value of those impacts as measured by the loss in utility and desirability to the remainder? When the State's transverse crossing interferes with legitimate railroad uses, the impact will be reflected in the valuation. Legitimate railroad uses include air or subsurface space, which may be reasonably usable for valuable nontransportation uses or for other transportation uses, and these uses are reasonably probable.

Merely including the Manual reference in the written appraisal is not sufficient documentation of the valuation. Each transverse crossing must be evaluated as described in the preceding paragraph. When the value of the transverse crossing is nominal, the following statement shall be included in the appraisal:

"The appraiser has ascertained that the value of the railroads' right to use the land for legitimate railroad purposes will not be diminished by the required transverse crossing. Because the crossing will not unduly interfere with the railroads' use for legitimate railroad purposes, the compensation is nominal."

Modification of trackage and other operational appurtenances will be handled by Construction and Maintenance Agreements or Service Contracts.

- e. Some transverse crossings may be skewed in relation to the railroad right of way and their design also include areas of longitudinal taking. In such cases, the transverse and longitudinal areas must be segregated and valued appropriately.

- f. Longitudinal takings that cross existing structural transverse easements will be appraised at market value. The effect on land uses or values because of the existing highway-railroad grade separation structure, within the new longitudinal easement area, will not be considered in estimating the market value of the longitudinal taking. The reasoning behind this premise is that if the original transverse crossing easement was obtained at no cost to the State and provided no benefit to the railroad, the new longitudinal taking should be paid for by the State.

2. Nonoperating railroad lands:

Land considered to be in excess of the railroad's present or future operating needs will be appraised at market value. Where the property is not capable of independent use or development, the appraiser should consider any potential use of the property as plottage or joinder with the adjacent properties.

B. Appraisals of Railroad-Owned Improvements

1. Railroad improvements being acquired without replacements or relocation and lessee-owned improvements on railroad properties will be valued using normal appraisal methods, with depreciation and salvage value given full recognition. Improvement valuation shall not include trackage.
2. Improvements which are to be relocated or replaced under the terms of a construction and maintenance agreement will be described and assigned a zero value.
3. Trackage will be handled by construction and maintenance agreement or service contract.

7.13.70.00 Governmental, Indian, Functionally Replaced Publicly Owned Facilities, and State Land

- A. Federal public lands, including national forests, will be appraised at zero land value, unless the Region/District believes land value may become an issue during acquisition. In this event, the land is to be appraised and shown at market value.
- B. Federal military reservations and Federal reservoirs, canals, and flood control channels will normally be appraised at zero land value unless the Region/District believes value may become an issue during acquisition. In this event, the land is to be appraised and shown at market value.
- C. Federal General Services Administration properties will usually be appraised at market value. There may be circumstances where the property will be conveyed at zero value if the use as a highway is compatible and a benefit to the Federal facility.
- D. State School Lands will be appraised at market value.
- E. Proposed acquisitions of public parks will be appraised at replacement cost. Per the Public Park Preservation Act of 1971, the acquiring entity pays sufficient compensation, or land, or both, to enable the operating entity to replace the park land and the facilities thereon. Ballantine's Law Dictionary defines "park" as a "tract of land acquired by a city, town, or other public authority, for ornament, and as a place for the resort of the public for recreation and amusement."

The substitute land should be of comparable characteristics and of substantially equal size, located in an area that would allow for use by generally the same persons who used the existing park land and facilities. The cost will include the land and the cost of development into park land, including placing of substitute facilities thereon. See Sections 5400 through 5409 of the California Public Resources Code.

- F. Indian tribal and allotted lands will normally be conveyed as easement title only and will therefore be appraised at market value less one dollar.
- G. All other federal, state, county, special district, school district, and city lands will be appraised at market value except:

- 1. If State will purchase the replacement property and functional replacement of improvements is proposed, and the owning agency has waived its right to have an estimate of compensation for the acquisition parcel established by the appraisal process in preference to functional replacement, the subject acquisition parcel will be valued at zero value. It will be necessary that there be compliance with all provisions of 23 CFR 710.509, et seq. (See Acquisition Chapter 8 and Exhibit 8-EX-34.)

The parcel numbers of the replacement land will be noted if available and the valuation basis discussed. The market value of the subject land will be included for information in "Remarks."

It will always be necessary for the Appraisal Branch to supply cost-estimate data for the acquisition property. These data are for inclusion in the submittal to FHWA seeking their concurrence in functional replacement. This will normally occur during the project-development stage of a project.

- 2. If acquisition of replacement property by the governmental agencies is proposed, the value of the minimum requirements of the proposed replacement property may be used as land value of the subject. The basis of valuation and description of the replacement property will be fully documented in the appraisal. The market value of the subject land will be included for information in "Remarks."

These instructions do not preclude donation, dedication, consent to joint use, or transfer of possession and control, without consideration, from any public agency to the Department for highway purposes.

City streets and county roads closed by freeway agreement will not be valued except as to the underlying fee for adjacent properties, if separate valuation of the underlying fee is necessary. Normally, the underlying fee is valued at \$1 because the public has full control over the surface use and the only rights the underlying fee owner has is one of a reversion. See Section 83 of the S&H Code.